

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

UNITED STATES OF AMERICA, Case No. 1:16-cr-00224-PAG  
Cleveland, Ohio  
Plaintiff, Monday, November 26, 2018  
9:00 a.m.  
vs.

BOGDAN NICOLESCU,  
RADU MICLAUS,  
Defendants.

TRANSCRIPT OF PRETRIAL PROCEEDINGS  
BEFORE THE HONORABLE PATRICIA A. GAUGHAN,  
CHIEF UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: Duncan T. Brown  
Brian M. McDonough  
Assistant United States Attorneys  
801 West Superior Avenue  
400 U.S. Court House  
Cleveland, Ohio 44113  
216-622-3600

Brian L. Levine  
U.S. Department of Justice  
Criminal Division  
Ste. 600  
1301 New York Avenue  
Washington, DC 20530  
202-616-5227

For the Defendants: (Continued to Page 2.)

Official Court Reporter: Heidi Blueskye Geizer,  
Certified Realtime Reporter  
United States District Court  
801 West Superior Avenue  
Cleveland, Ohio 44113  
216-357-7092

Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.

1 APPEARANCES: (Continued)

2 For the Defendant Michael J. Goldberg  
3 Bogdan Nicolescu: Law Office of Michael J. Goldberg  
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5 323 Lakeside Place  
6 Cleveland, OH 44113  
7 216-696-4514

8 For the Defendant Michael J. O'Shea  
9 Radu Miclaus: Lipson O'Shea  
10 110 Hoyt Block Bldg.  
11 700 West St. Clair Avenue  
12 Cleveland, Ohio 44113  
13 216-241-0011

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1 MORNING SESSION, MONDAY, NOVEMBER 26, 2018 9:00 A.M.

2 (Call to order of the Court.)

3 THE COURT: We are here in the matter of the  
4 United States of America versus Bogdan Nicolescu and Radu  
5 Miclaus, Case Number 16-cr-224.

6 Present in court is Mr. Nicolescu. Also present in  
7 court is Mr. Miclaus.

8 One more time, sir, how do you pronounce your last  
9 name?

10 DEFT. MICLAUS: Miclaus.

11 THE COURT: Miclaus.

12 DEFT. MICLAUS: Yes.

13 THE COURT: Mr. Miclaus is in fact represented  
14 by Mr. Michael O'Shea, who is present here.

15 MR. O'SHEA: Good morning.

16 THE COURT: This Court has in fact appointed  
17 Mr. Michael Goldberg on behalf of Mr. Nicolescu, and  
18 Mr. Goldberg is present here in court.

19 On behalf of the government is Mr. Duncan Brown, Mr.  
20 Brian Levine, and Mr. Brian McDonough.

21 MR. BROWN: Good morning, Your Honor.

22 THE COURT: Good morning.

23 This matter was set for trial today. As this Court  
24 indicated in a docket entry of November 19, a very serious  
25 issue was brought to the attention of this Court; and very

1 specifically, it was a conflict of interest that was brought  
2 to the attention of this Court.

3 Because of that, this Court did in fact have a  
4 telephonic conference with Mr. Brown, Mr. Levine,  
5 Mr. McDonough on behalf of the government, as well as  
6 Mr. Ross Smith, who was the attorney representing  
7 Mr. Nicolescu.

8 After having a telephone discussion regarding the  
9 potential conflict, Mr. Smith had asked that he be removed  
10 from representing Mr. Nicolescu. This Court granted his  
11 request to withdraw, and on the same date this Court  
12 appointed Mr. Michael Goldberg.

13 Obviously Mr. Goldberg represented to this Court that  
14 he would not be prepared to proceed to trial within a  
15 one-week period of time, and therefore this Court made the  
16 determination to continue this matter and not proceed with  
17 trial today.

18 I will also indicate that after the telephone  
19 conference with Mr. Smith we had a telephone conference with  
20 Mr. O'Shea. All counsel agreed that the matter should be  
21 continued and that the defendants not be severed.

22 On behalf of the government, have I represented  
23 everything accurately?

24 MR. BROWN: Yes, Your Honor. Thank you.

25 THE COURT: Mr. O'Shea?

1 MR. O'SHEA: Good morning. Yes, Your Honor.

2 THE COURT: And Mr. Goldberg, you are new to  
3 the case, but am I correct that you indicated you would not  
4 be prepared to proceed within a one-week period of time?

5 MR. GOLDBERG: That is correct, Your Honor. I  
6 would not be prepared probably in two weeks even.

7 But with regard to the severance issue, I have not  
8 looked at this issue, Your Honor. I would reserve my  
9 client's right to raise that issue at a later date if I  
10 believe that it is properly put before the Court. I don't  
11 know enough about the specific issues to know whether  
12 severance is in his best interests or even legally worthy of  
13 an objection, but right now I'd like to leave that open on  
14 his behalf.

15 THE COURT: And my statement was in regards to  
16 whether or not we'd proceed today on Mr. O'Shea's client,  
17 and it was agreed by and between Mr. O'Shea and Mr. Brown,  
18 Mr. Levine, and Mr. McDonough, that we not proceed today on  
19 Mr. O'Shea's client.

20 MR. GOLDBERG: Thank you.

21 THE COURT: No problem.

22 I have had discussions with counsel in chambers, and  
23 we have all agreed to the following: The government intends  
24 to file a motion regarding hearsay. That motion will be  
25 filed by December 31st. The government intends to file a

1 motion regarding authentication. That will be filed by  
2 January 31st.

3 Any brief or briefs in opposition will be due seven  
4 days after the motion is filed.

5 Pretrial motions, other than the two I just mentioned,  
6 are to be filed by February 25th.

7 Briefs in opposition by March 4th.

8 Final pretrial, March 18th at 9:00 a.m.

9 Trial, March 28 at 9:00 a.m.

10 On behalf of the government, is there anything further  
11 for today?

12 MR. BROWN: Nothing further. Thank you.

13 THE COURT: Mr. Goldberg -- and again, you  
14 understand, Mr. Goldberg, you were formally appointed on  
15 November 19th.

16 MR. GOLDBERG: Yes.

17 THE COURT: And I'm certain you have not had  
18 sufficient time to even bring up issues with the Court, but  
19 I still have to ask you, is there anything further?

20 MR. GOLDBERG: I don't believe there's any  
21 issues relative to the matter itself.

22 Logistically, Your Honor, to the extent this Court can  
23 request the U.S. Marshals to locate my client somewhere in  
24 the greater Cleveland area rather than CCA to facilitate  
25 more frequent-based visits so I can get up to speed, I would

1 appreciate that.

2 I understand that that's really a matter for the U.S.  
3 Marshals Service, and they're going to make the final  
4 determination. But to the extent the Court can recommend,  
5 ask, or somehow let it be known that that is in the best  
6 interests of moving this matter forward, I would appreciate  
7 it.

8 THE COURT: Well --

9 DEPUTY U.S. MARSHAL: May I come up?

10 THE COURT: Certainly.

11 (Discussion at side-bar off the record.)

12 THE COURT: Mr. Goldberg, the Marshals are  
13 aware of your request. That's the best I can do.

14 MR. GOLDBERG: Thank you, Your Honor.

15 THE COURT: Anything else?

16 MR. GOLDBERG: No, Your Honor. Thank you.

17 THE COURT: Mr. O'Shea, anything?

18 MR. O'SHEA: Nothing. Nothing further this  
19 morning. Thank you.

20 THE COURT: All right. We're in adjournment.

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22 (Proceedings adjourned.)

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C E R T I F I C A T E

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

s/Heidi Blueskye Geizer January 22, 2020

Heidi Blueskye Geizer  
Official Court Reporter

Date